

PAMELA Y. PRICE, ESQ. (STATE BAR NO. 107713)
PRICE AND ASSOCIATES
The Latham Square Building
1611 Telegraph Avenue, Suite 1450
Oakland, CA 94612
Telephone: (510) 452-0292
Facsimile: (510) 452-5625

Attorneys for Plaintiff
JOHN EARL CAMPBELL

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

JOHN EARL CAMPBELL,

Plaintiff,

v.

NATIONAL PASSENGER RAILROAD
CORPORATION dba AMTRAK, JOE
DEELY, and DOES 1-15, inclusive,

Defendants.

NO. C05-5434 MJJ (EDL)

**TABLE OF AUTHORITIES FOR
PLAINTIFF'S MEMORANDUM OF
POINTS AND AUTHORITIES IN
OPPOSITION TO DEFENDANT JOE
DEELY'S MOTION FOR SUMMARY
JUDGMENT, OR IN THE
ALTERNATIVE, PARTIAL SUMMARY
JUDGMENT**

DATE: May 22, 2007
TIME: 9:00 A.M.
CTRM.: 11, 19TH FLOOR

TRIAL DATE: JULY 23, 2007

HON. MARTIN J. JENKINS

TABLE OF AUTHORITIES

FEDERAL CASES

<i>Abdul-Jabbar v. General Motors</i> , 85 F.3d 407 (9th Cir. 1996)	23
<i>Adickes v. S.H. Kress & Co.</i> , 398 U.S. 144, 90 S. Ct. 1598, 26 L.Ed.2d 142 (1970)	22
<i>Andrews v. Lakeshore Rehabilitation Hospital</i> , 140 F.3d 1405 (11th Cir. 1998)	14
<i>Atonio v. Wards Cove Packing Company, Inc.</i> , 810 F.2d 1477 (9th Cir. 1987)	23, 24
<i>Bergene v. Salt River Project Agriculture Improvement & Power District</i> , 272 F.3d 1136 (9th Cir. 2001)	21
<i>Burlington Northern and Santa Fe Railway Co. v. White</i> , 548 U.S. ___, 126 S.Ct. 2405, 165 L.Ed.2d 345 (2006)	21
<i>Burns v. McGregor Electronic Industries, Inc.</i> , 955 F.2d 559 (8th Cir. 1992)	13
<i>Chavira v. Payless Shoe Source</i> , 140 F.R.D. 441 (E.D.Cal. 1991)	15
<i>Coghlan v. America Seafoods Co.</i> , 413 F.3d 1090 (9th Cir. 2005)	11
<i>Costa v. Desert Palace, Inc.</i> , 299 F.3d 838 (9th Cir. 2002), <i>affirmed by</i> , <i>Desert Palace, Inc. v. Costa</i> , 539 U.S. 90, 123 S.Ct. 2148, 156 L.Ed.2d 84 (2003)	10
<i>Coszalter v. City of Salem</i> , 320 F.3d 968 (9th Cir. 2003)	22
<i>Detroit Police Officers Association v. Young</i> , 608 F.2d 671 (6th Cir. 1979)	13
<i>Dominguez-Curry v. Nevada Transportation Department</i> , 424 F.3d 1027 (9th Cir. 2005)	11, 13
<i>Equal Employment Opportunity Commission v. Crown Zellerbach Corp.</i> , 720 F.2d 1008 (9th Cir. 1983)	21
<i>Equal Employment Opportunity Commission v. Wal Mart Stores</i> , 156 F.3d 989 (9th Cir. 1998)	24
<i>Emmel v. Coca-Cola Bottling Co. of Chicago</i> , 95 F.3d 627 (7th Cir. 1996)	24
<i>Equal Employment Opportunity Commission v. Farmers Brother Company</i> , 31 F.2d 891 (9th Cir. 1994)	13
<i>Estes v. Dick Smith Ford, Inc.</i> , 856 F.2d 1097 (8th Cir. 1988)	12
<i>Federal Deposit Insurance Corp. v. N.H. Insurance Co.</i> , 953 F.2d 478 (9th Cir. 1991)	9
<i>Foley v. University of Houston System</i> , 324 F.3d 310 (5th Cir. 2003)	14

1	<i>Fraser v. Goodale</i> , 342 F.3d 1032 (9th Cir. 2003)	10
2	<i>Furnco Construction Corp. v. Waters</i> , 438 U.S. 567, 57 L.Ed.2d 957,	
3	98 S. Ct. 2943 (1978)	17
4	<i>Garrett v. City & County of San Francisco</i> , 818 F.2d 1515 (9th Cir. 1987)	16
5	<i>Gay v. Waiters' & Dairy Lunchmen's Union</i> , 694 F.2d 531 (9th Cir. 1982)	9
6	<i>Godwin v. Hunt Wesson Inc.</i> , 150 F.3d 1217 (9th Cir. 1998)	9, 11
7	<i>Gonzales v. Police Department, City of San Jose</i> , 901 F.2d 758 (9th Cir.	
8	1990)	16
9	<i>Green v. Armstrong Rubber</i> , 612 F.2d 967 (5th Cir. 1980)	16
10	<i>Harvey v. Armour Co.</i> , 743 F.2d 199 (4th Cir. 1984), <i>cert. den</i>	13
11	<i>Hawkins v. 1115 Legal Serv. Care</i> , 163 F.3d 684 (2d Cir. 1998)	14
12	<i>Hemmings v. Tidyman's Inc.</i> , 285 F.3d 1174 (9th Cir. 2002)	24
13	<i>Hewlett-Packard v. Co.</i> , 358 F.3d 599 (9th Cir. 2004)	9
14	<i>Heyne v. Caruso</i> , 69 F.3d 1475 (9th Cir. 1995)	11, 12
15	<i>Hudson v. Moore Business Forms, Inc.</i> , 609 F. Supp. 467 (D.C. Cal. 1985)	15
16	<i>Hunter v. Allis-Chalmers Corp., Engine Division</i> , 797 F.2d 1417 (7th Cir.	
17	1986)	12
18	<i>International Brotherhood of Teamsters v. U.S.</i> ,	
19	431 U.S. 324, 97 S. Ct. 1843, 52 L.Ed.2d 396 (1977)	9
20	<i>J.F. Feeser, Inc. v. Serv-A-Portion, Inc.</i> , 909 F.2d 1524 (3d Cir. 1990)	10
21	<i>Jauregui v. City of Glendale</i> , 852 F.2d 1128 (9th Cir. 1988)	16, 23, 24
22	<i>Kachmar v. SunGard Data System Inc.</i> , 109F.3d 173 (3rd Cir. 1997)	22
23	<i>Kaplan v. International Alliance of Theatrical and Stage Employees</i> , 525	
24	F.2d 1354 (9th Cir. 1975)	15
25	<i>Kim v. Nash Finch Co.</i> , 123 F.3d 1046 (8th Cir. 1997)	15
26	<i>Lake Nacimiento Ranch Co. v. San Luis Obispo County</i> , 841 F.2d 872	
27	(9th Cir. 1987)	22
28	<i>Lam v. University of Hawaii</i> , 40 F.3d 1551 (9th Cir. 1994)	13
	<i>Laxton v. Gap Inc.</i> , 333 F.3d 572 (5th Cir. 2003)	13
	<i>Manatt v. Bank of America, NA</i> , 339 F.3d 792 (9th Cir. 2003)	14
	<i>McAlindin v. County of San Diego</i> , 192 F.3d 1226 (9th Cir. 2000)	21

1		
2	<i>McDonald v. Santa Fe Trail Transportation</i> , 427 U.S. 273, 96 S. Ct. 2574, 49 L. Ed. 2d 493 (1976)	16
3	<i>McDonnell Douglas Corp. v. Green</i> , 411 U.S. 792, 93 S. Ct. 1817, 36 L. Ed. 2d 668 (1973)	9
4	<i>McGinest v. GTE Service Corp.</i> , 360 F.3d 1103 (9th Cir. 2004)	10
5	<i>Miller v. Fairchild Ind.</i> , 885 F.2d 498 (9th Cir. 1989)	21
6	<i>Mondero v. Salt River Project</i> , 400 F.3d 1207 (9th Cir. 2005)	11
7	<i>Morgan v. National Passenger Railroad Corp.</i> , 232 F.3d 1008 (9th Cir. 2000), <i>affirmed</i> <i>in part and reversed in part</i> , 536 U.S. 101 (2002)	12
8		
9	<i>Mullen v. Princess Anne Volunteer Fire Fighter Co. Inc.</i> , 853 F.2d 1130 (4th Cir. 1988)	10, 12
10		
11	<i>O'Neal v. Ferguson Construction Co.</i> , 237 F.3d 1248 (10th Cir. 2001)	15
12	<i>Page v. U.S. Industries, Inc.</i> , 726 F.2d 1038 (5th Cir. 1984)	23
13	<i>Payne v. Northwest Corp.</i> , 113 F.3d 1078 (9th Cir. 1997)	21
14	<i>Porter v. Cal. Department of Corrections</i> , 383 F.3d 1018 (9th Cir. 2004)	16, 21
15		
16	<i>Ray v. Henderson</i> , 217 F.2d 1234 (9th Cir. 2000)	21
17	<i>Reeves v. Sanderson Plumbing Products, Inc.</i> , 530 U.S. 133, 147 L. Ed. 2d 105, 120 S. Ct. 2097 (2000)	17
18		
19	<i>Rowe v. General Motors Corp.</i> , 457 F.2d 348 (5th Cir. 1972)	23
20	<i>Spulak v. K Mart Corp.</i> , 894 F.2d 1150 (10th Cir. 1990)	12
21	<i>Stache v. International Union of Bricklayers and Allied Craftsmen</i> , 852 F.2d 1231 (9th Cir. 1988)	15
22		
23	<i>Stegall v. Citadel Broadcasting Co.</i> , 350 F.3d 1061 (9th Cir. 2003)	10
24	<i>Stender v. Lucky Stores, Inc.</i> , 803 F. Supp. 259 (N.D.Cal. 1992)	12
25	<i>Texas Department of Community Affairs v. Burdine</i> , 450 U.S. 248, 67 L. Ed. 2d 207, 101 S. Ct. 1089 (1981)	9
26		
27	<i>Turner v. Texas Instruments</i> , 555 F.2d 1251 (5th Cir. 1977)	16
28		

1	<i>United States Postal Service Board of Governors v. Aikens</i> , 460 U.S. 711	
2	(1983)	10
3	<i>United States v. Jewell</i> , 532 F.2d 697 (9th Cir. 1976), <i>cert. denied</i> , 426	
4	U.S. 951 (1976)	22
5	<i>Villiarimo v. Aloha Island Air, Inc.</i> , 281 F.3d 1054 (9th Cir. 2002)	21
6	<i>Wallis v. J. R. Simplot Co.</i> , 26 F.3d 885 (9th Cir. 1994)	9
7	<i>Wells v. New Cherokee Corp.</i> , 58 F.3d 233 (6th Cir. 1995)	13
8	<i>Wilson v. United States</i> , 162 U.S. 613, 40 L. Ed.1090, 16 S. Ct. 895 (1896)	17
9	<i>Wright v. West</i> , 505 U.S. 277, 120 L. Ed. 2d 225, 112 S. Ct. 2482 (1992)	17
10	<i>Wrighten v. Metropolitan Hospital</i> , 726 F.2d 1346 (9th Cir. 1984)	15
11	<i>Yartzoff v. Thomas</i> , 809 F.2d 1371 (9th Cir. 1989)	21

STATE CASES

14	<i>Trujillo v. North County Transit District</i> , 63 Cal. App. 4th 280 (1998)	22
----	--	----

FEDERAL STATUTES

16	42 U.S.C. Section 1981	1, 2
17		
18	42 U.S.C. Section 1988	12